

### **REMARKS/ARGUMENTS**

By this Amendment, claims 1, 3, 28, 58, 59, 63-66, 68, and 69 are amended, claims 6-27, 33-36, 46-57, and 70-96 remain withdrawn, and claims 31 and 32 are canceled, leaving claims 2, 4, 5, 29, 30, 37-45, 60-62, and 67 unchanged.

On pages 2 and 3 of the Office Action, claims 28-32 and 37-39 are rejected as unpatentable on the ground of non-statutory obviousness-type double patenting over claims 1-22 of U.S. Patent No. 6,786,017 issued to Thompson. Also on pages 2 and 3 of the Office Action, claims 40-45 are rejected as unpatentable on the ground of non-statutory obviousness-type double patenting over claims 1-22 of Thompson in view of U.S. Patent No. 3,213,580 issued to Mark.

The Applicant hereby submits a terminal disclaimer with regard to U.S. Patent No. 6,786,017 issued to Thompson, and therefore respectfully requests withdrawal of the double patenting rejection of claims 28-32 and 37-45.

On pages 3 and 4 of the Office Action, claims 1, 4, 5, 58-60, 62-66, 68 and 69 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,931,429 issued to Hellwig et al.

Claim 1 is hereby amended, and calls for:

A modular room upright assembly for use in a modular room constructed upon a floor surface, the modular room upright assembly comprising:  
a substantially vertical elongated upright having  
a wall at least partially defining an interior of the upright;  
a bottom end adjacent to the floor surface; and  
a first aperture in the wall;  
a bracket coupled to the bottom end of the upright, the bracket having:  
a first portion received within the first aperture of the upright, extending longitudinally within the interior of the upright to the bottom end of  
the upright, and having a distal end releasably coupled to a second aperture defined in an interior wall of the upright;  
a second portion extending away from the upright to a location disposed from  
the upright; and  
a foot coupled to the second portion and positioned to rest upon the floor a distance from the upright.

(Amendment marks not shown).

As described in greater detail in the present application as originally filed, some embodiments of the present invention provide a modular room upright assembly having an upright with a wall least partially defining an interior of the upright, a bottom end, and an aperture in the wall. A bracket has a first portion this is received within the aperture, extends longitudinally within the interior of the upright to the bottom end thereof, and has a distal end releasably coupled to another aperture in an interior wall of the upright. The bracket can also have a second portion extending away from the upright, and a foot coupled to the second portion.

In contrast, Hellwig discloses a panel 4 (compared by the Examiner to the upright claimed in claim 1) to which a support post 20 is connected via securing hooks 22, wherein each securing hook 22 is received within a single unnumbered aperture in the panel 4 to establish this connection. The securing hooks 22 taught by Hellwig are not received within any other aperture or other portion of a structure (whether of the panel 4 or otherwise). Hellwig fails to teach, describe, or suggest, among other things, a modular room upright assembly having an upright with an aperture in which a bracket having a distal foot is received, wherein the bracket also has an end releasably coupled to another aperture defined in the interior of the upright. As best

shown in Fig. 2 of Hellwig, the securing hooks 22 of the Hellwig structure are received within respective apertures of the panel 4, and simply terminate in the interior of the panel 4.

Hellwig also fails to suggest modification of either edge 25, 26 or securing hook 22 to take a form as claimed in amended claim 1, how the resulting edge 25, 26 or securing hook 22 would relate to the panel 4 or other surrounding structure, why such a modification to the edge 25, 26 or securing hook 22 would be desirable, nor what purpose such a modification would achieve. These points were discussed in the May 9, 2006 Examiner's Interview with the undersigned Applicant's Representative. In the Interview, the Examiner acknowledged that these points, in light of amended claim 1 (portions of which were read to the Examiner by telephone) would be helpful to distinguish amended claim 1 over Hellwig.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of amended claim 1. Claims 2-5 are each ultimately dependent upon amended claim 1, and are allowable based upon amended claim 1 and upon other features and elements claimed in claims 2-5 but not discussed herein. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejections of claims 4 and 5.

Claim 58 is also hereby amended, and calls for:

A modular room upright assembly for use in a modular room constructed upon a floor surface, the modular room upright assembly comprising:  
a substantially vertical elongated upright having  
a first wall at least partially defining an interior of the upright;  
a bottom end adjacent to the floor surface;  
a second wall extending across the interior of the upright; and  
at least one aperture in the first wall;  
a bracket coupled to the bottom end of the upright, the bracket having:  
a first portion received within the aperture of the upright, extending within the interior of the upright and having a distal end releasably engaged with the second wall of the upright;  
a second portion extending away from the upright to a location disposed from the upright; and  
a foot coupled to the second portion and positioned to rest upon the floor a distance from the upright.

(Amendment marks not shown).

As described in greater detail in the present application as originally filed, some embodiments of the present invention provide a modular room upright assembly having an upright with a first wall at least partially defining an interior of the upright, a bottom end, a second wall extending across the interior of the upright, and at least one aperture in the first wall. A bracket has a first portion that is received within the aperture, extends within the interior of the upright, and has a distal end releasably engaged with the second wall of the upright. The bracket can also have a second portion extending away from the upright, and a foot coupled to the second portion.

In contrast, and as discussed above with regard to amended claim 1, Hellwig discloses a panel 4 (compared by the Examiner to the upright claimed in claim 1) to which a support post 20 is connected via securing hooks 22, wherein each securing hook 22 is received within a single unnumbered aperture in the panel 4 to establish this connection. Neither of the securing hooks 22 disclosed by Hellwig are both received within an aperture of a first wall (e.g., of the panel 4) and releasably engaged with a second wall extending across the interior of an upright (e.g., of the panel 4). Hellwig fails to teach, describe, or suggest, among other things, a modular room upright assembly having an aperture in a first wall of an upright in which a bracket is received and a second wall extending across the interior of an upright and to which the bracket is engaged. As best shown in Fig. 2 of Hellwig, the securing hooks 22 of the Hellwig structure are received within respective apertures of the panel 4, and simply terminate in the interior of the panel 4.

As also discussed above with regard to amended claim 1, Hellwig also fails to suggest modification of either edge 25, 26 or securing hook 22 to take a form as claimed in amended claim 58, how the resulting edge 25, 26 or securing hook 22 would relate to the panel 4 or other surrounding structure, why such a modification to the edge 25, 26 or securing hook 22 would be desirable, nor what purpose such a modification would achieve. These points were discussed in the May 9, 2006 Examiner's Interview with the undersigned Applicant's Representative. In the Interview, the Examiner acknowledged that these points, in light of amended claim 58 (portions of which were read to the Examiner by telephone) would be helpful to distinguish amended claim 58 over Hellwig.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of amended claim 58. Claims 59-63 are each ultimately dependent upon amended claim 58, and are allowable based upon amended claim 58 and upon other features and elements claimed in claims 59-63 but not discussed herein. Accordingly, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of claims 59, 60, 62, and 63.

Claim 64 is also hereby amended, and calls for:

A modular room upright assembly for use in a modular room constructed upon a floor surface, the modular room upright assembly comprising:

- a substantially vertical elongated upright having
  - a longitudinal axis at a center of the upright;
  - a wall at least partially defining an interior of the upright, the wall terminating at an opening proximate a bottom of the upright; and
  - at least one aperture in the wall;
- a bracket coupled to the upright proximate the bottom of the upright, the bracket having:
  - a first portion received within the aperture of the upright, extending within the interior of the upright, and having a distal end releasably coupled to a second wall extending across the longitudinal axis of the upright; and
  - a second portion extending away from the upright to a location disposed from the upright; and
  - a foot coupled to the second portion and positioned to rest upon the floor a distance from the upright.

(Amendment marks not shown).

As described and illustrated in greater detail in the present application as originally filed, some embodiments of the present invention provide a modular room upright assembly having an upright with a wall least partially defining an interior of the upright, a longitudinal axis at the center of the upright, and an aperture in a wall at least partially defining the interior of the upright and terminating at an opening proximate the bottom of the upright. A bracket has a first portion that is received within the aperture, extends within the interior of the upright, and has a distal end releasably coupled to a second wall extending across the longitudinal axis of the

upright. The bracket can also have a second portion extending away from the upright, and a foot coupled to the second portion.

In contrast, and as discussed above with regard to amended claim 1, Hellwig discloses a panel 4 (compared by the Examiner to the upright claimed in claim 1) to which a support post 20 is connected via securing hooks 22, wherein each securing hook 22 is received within a single unnumbered aperture in the panel 4 to establish this connection. Neither of the securing hooks 22 disclosed by Hellwig are both received within an aperture of the panel 4 and are releasably coupled to a second wall extending across a longitudinal axis of the panel 4 located at the center of the panel 4. Hellwig fails to teach, describe, or suggest, among other things, a modular room upright assembly having an aperture in an upright in which a bracket is received and a second wall extending across a longitudinal axis of the upright (located at the center of the upright) and to which the bracket is releasably coupled. As best shown in Fig. 2 of Hellwig, the securing hooks 22 of the Hellwig structure are received within respective apertures of the panel 4, and simply terminate in the interior of the panel 4.

As also discussed above with regard to amended claim 1, Hellwig also fails to suggest modification of either edge 25, 26 or securing hook 22 to take a form as claimed in amended claim 64, how the resulting edge 25, 26 or securing hook 22 would relate to the panel 4 or other surrounding structure, why such a modification to the edge 25, 26 or securing hook 22 would be desirable, nor what purpose such a modification would achieve. These points were discussed in the May 9, 2006 Examiner's Interview with the undersigned Applicant's Representative. In the Interview, the Examiner acknowledged that these points, in light of amended claim 64 (portions of which were read to the Examiner by telephone) would be helpful to distinguish amended claim 64 over Hellwig.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of amended claim 64. Claims 65-69 are each ultimately dependent upon amended claim 64, and are allowable based upon amended claim 64 and upon other features and elements claimed in claims 65-69 but not discussed herein.

Accordingly, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejections of claims 65, 66, 68, and 69.

On pages 3 and 4 of the Office Action, claims 28-32 and 37-39 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,213,580, issued to Mark.

Claim 28 is hereby amended, and calls for:

A modular room upright assembly adapted to be coupled to a floor, the modular room upright assembly comprising:  
a substantially vertical elongated upright having  
a bottom end; and  
a plurality of sidewalls;  
a base plate;  
a first fastener adapted to secure the base plate to the floor; and  
at least one upstanding member extending from the base plate, a single upstanding member of the at least one upstanding member clamped by a second fastener against a substantially vertical face of a sidewall of the upright adjacent to the bottom end of the upright, the second fastener received through apertures in the upright and the single upstanding member to clamp the upright and the single upstanding member together.  
(Amendment marks not shown).

As described in greater detail in the present application as originally filed, some embodiments of the present invention provide a modular room upright assembly comprising a base plate securable to a floor by a first fastener, and a single upstanding member extending from the base plate and clamped by a second fastener to a substantially vertical face of an upright sidewall adjacent the bottom end of the upright (regardless of whether more than one extends from the base plate). The second fastener is received through apertures in the upright and single upstanding member to clamp these elements together.

In contrast, Mark discloses a floor anchor 14 having two angle brackets 20 between which a post 10 is clamped to secure the post 10. This results in a clamping action that is significantly different from that of a single angle bracket clamped against the post 10 – a structure that would not be possible using the components taught by Mark. In practice, one having ordinary skill in the art will recognize that the angle brackets 20 of the Mark floor anchor

14 must be spaced exactly in order to achieve a distributed contact area between the upright branches 26 of the angle brackets 20 and the walls of the post 10 when the bolt 34 is tightened. If this spacing is even slightly too large, the upright branches 26 will need to be pulled together to engage the post 10 (resulting in a reduced clamping area between the upright branches 26 and the post 10, and a poorer clamping result). If the spacing is even slightly too small, the post 10 will not fit between the upright branches 26. In contrast, the use of a single upstanding member clamped by a fastener against a substantially vertical face of an upright extending from a base plate (as claimed in amended claim 28) can provide a more largely-distributed clamping surface and a more reliable clamping action. This relationship is simply not taught, described, or suggested by Mark, who appears to disclose a structure requiring clamping between two angle brackets 10. In this regard, it should be noted that the nut and bolt head on opposite sides of the structure illustrated in Fig. 3 of Mark indicates that a single angle bracket 20 of the Mark device could not possibly be used to secure the post 10.

Mark also fails to suggest modification of either angle bracket 20 or the post 10 to take a form as claimed in amended claim 28, how the resulting brackets 20, post 10, and bolt 32 would relate to one another to provide an operable structure, why such a modification to the brackets 20, post 10, or bolt 32 would be desirable, nor what purpose such a modification would achieve. These points were discussed in the May 9, 2006 Examiner's Interview with the undersigned Applicant's Representative.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of amended claim 28. Claims 29-32 and 37-39 are each ultimately dependent upon amended claim 28, and are allowable based upon amended claim 28 and upon other features and elements claimed in claims 29-32 and 37-39 but not discussed herein. Accordingly, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejections of claims 29-32 and 37-39.



In view of the above amendments and remarks, the Applicant respectfully submits that the claims are patentably distinct over the prior art, that all the rejections to the claims have been overcome, and that the application is in condition for allowance. Entry of this Amendment is therefore requested. If any issues remain outstanding upon entry of this Amendment, the Examiner is respectfully requested to telephone the undersigned Applicant's Representative at (414) 225-8266.

Respectfully submitted,



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